BREWER FIGHTS ON IN SUPREME COURT

Feigenspan Files Petition for Rehearing of Suit Dismissed June 7.

ATTACKS COURT METHOD

Reasons for Upholding Dry Laws Not Explained, It Is Asserted.

Christian Feigenspan, New Jersey brewer, who was one of the appellants in the group of cases upon which the United States Supreme Court handed down its decision of June 7 upholding the constitutionality of the Eighteenth Amendment and the Volstead act, today, in Washington, through his counsel, Elihu Root and William D. Guthrie, will file a petition for a rehearing of his suit.

Particular emphasis is placed in the petition upon the criticism which has been directed against the Supreme Court for delivering its opinion in the test cases without stating in full and plain terms the reasons for its action. "No important modern case," states the petition, "involving such vital questions of constitutional law, so far as counsel have been able to find, has ever before been disposed of by any English or American court of final resort without opinion and upon a mere statement of ultimate conclusions. The precedent is believed to be dangerous to constitutional rights and liberties."

"Public opinion," the petition continues, "has doubted and challenged the fitness of summarily deciding and disposing of a great constitutional controversy, involving vast property interests and long established legitimate industries and intimately concerning the welfare of the whole people, without disclosing any reasons for such disposition."

The petition also takes emphatic exception to the construction placed by the court upon the second section of the Eighteenth Amendment, which states that "the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation."

The court interprets the section to mean what it does not say, the petition argues. "The present construction of the court," it states, "so far as it is disclosed, makes the power of Congress practically paramount and exclusive, and gives no effect whatever to the second section of the Eighteenth Amendment as formulated by the House of Representatives and agreed to by the Senate.

"Under the conclusions announced by the court, the express grant of 'concurrent power' to the Congress and the several States did not mean what it said, but on the contrary meant that paramount power was being vested in Congress, and no practical power at all in the States even as to their own internal affairs. Of course, to assert, as the conclusions announced imply, that the power of Congress under section 2 is paramount even over the internal affairs of the States, is practically to deny the latter any concurrent power whatever."

The petition also submits that the time allotted for oral argument when the cases were pleaded before the Supreme Court was so limited that no comprehensive explanation, presentation or elaboration of all the complex points involved was possible.

Flowers Dropped From Planes.

LOS ANGELES, Aug. 5.—Flowers were dropped from fifteen airplanes to-day as hearses bearing the bodies of Lieuts. Omar Locklear and Milton Elliott, former army aviators, killed here Monday night while doing "stunt" flying for a motion picture scene, made their way to the train which was to take the bodies East.

FINES ONLY $1 EACH FOR WHISKEY STILLS

Dry Agents Rebuked by Federal Judge as Arbitrary.

PITTSBURG, Aug. 5.—The two lightest fines to be imposed here for violation of the Volstead act were meted out by Judge Orr in United States District Court to-day to Mele Foster and Joe Bijart, Clarksville, Washington county, charged with having an illicit still in their possession. The fines were $1 each.

Testimony disclosed that the men were arrested by local authorities and then taken into custody by prohibition agents without warrants having been issued first and complaints formally made.

The Judge in imposing the fine declared: "How can I impose a substantial fine upon men whose highest rights have been violated? These defendants were seized in violation of the Constitution of the United States without warrants. The practice of making arrests in this manner is becoming too common. It is a blot on our civilization and on justice."

POLICE LACK POWER TO ENFORCE DRY LAW

Maryland Ruling Declares Arrests Illegal.

BALTIMORE, Aug. 5.—State's Attorney-General Armstrong has ruled that the police of Baltimore city do not possess the power to make arrests for violations of the Volstead act.

Some weeks ago, in response to an inquiry from the police commissioner, Mr. Armstrong ruled that the police of Baltimore were under no legal compulsion to assist in the enforcement of the Volstead act. Now the Attorney-General has gone further, and, in response to a query from Commissioner Gaither, has ruled that they cannot legally make arrests for violations of the Volstead act.

The Attorney-General holds that "the police of Baltimore city do not, at this time, by virtue of their official position, possess the power to make legal arrests for violations of the Volstead act, or validly to execute Federal processes issued by virtue of its provisions."

CHICAGO BAN ASKED ON KARL HUSZAR

Hungarians Fear Presence of Former Premier.

Special to THE SUN AND NEW YORK HERALD.

CHICAGO, Aug. 5.—A request that Karl Huszar, former Premier of Hungary, who is now in New York, be prevented from visiting Chicago, was filed to-day, with Berthold Singer, Spanish Consul in Chicago, by various Hungarian societies. The societies fear an outbreak if Huszar appears here, due to the fact that many Hungarians hold him responsible for pogroms and oppression of Jews in Hungary.

The societies filing the request included the Hungarian University Club, Hungarian Self-Culture Society, Hungarian Social and Sick Benefit Society and the local branch of the Hungarian American Federation.

"I do not intend to visit Chicago," Karl Huszer, former Premier of Hungary, said yesterday. "The Chicago Hungarian societies who have asked that I be barred from their city have taken those steps for nothing. I intend to return to Hungary in two weeks after finishing my business here in relation to relief for Hungarian prisoners in Siberia."

Huszar denied stating that 50,000 Jews would be massacred in Hungary if he was harmed here. The Federation of Hungarian Jews here have adopted resolutions urging Huszar's deportation as an undesirable alien.

Huszar stated he had said that if he was harmed in America it probably would be unpleasant for the Jews in Hungary.

PINT IN SIX MONTHS FOR EACH JERSEYITE

His 'Quota' for That Time Was Three Quarts Before Prohibition.

Figures given out yesterday by the Anti-Saloon League of New Jersey indicate that during the first six months of prohibition the per capita consumption of hard liquor for that period fell from nearly six and a half pints, the amount consumed in six pre-prohibition months, to a fraction over one pint.

These figures, however, do not take into account the quantities of diluted whiskey and other substitutes for full fledged liquor which have been prepared since the prohibition law went into effect. They are arrived at on the basis of a statement recently made by John F. Kramer, national prohibition commissioner, to the effect that 15,000,000 gallons of spirits had been withdrawn from bond for consumption during the first six months of prohibition.

William H. Anderson, New York State superintendent of the league, characterized yesterday the Tammany platform on prohibition as "an attempt to sell an alcoholic gold brick to the thirsty; yet even at that quite as honest and much more clever than the Republican State platform declaration."

"The Democrats," he said, "have at least made a frank and open appeal to the wets, most of whom in this State are Democrats. The Republicans, by yielding to the brewers in striking out their tentative clause declaring for the repeal of the 2.75 beer act, further betrayed and again outraged the prohibitionists, most of whom are Republicans in New York."

Attorneys for the Hildeck Apple Juice Company and the Duffy-Mott Company, makers of preserved sweet cider, appeared yesterday before Judge Augustus N. Hand and argued that cider has no appreciable kick to it and that it ought not to come under the ban of the Volstead act.

Preserved sweet cider, although treated with benzoate of soda, admittedly contains more than one-half of one per cent. alcohol. When the manufacturers of it were refused licenses they applied to the Federal Court for an order directing the prohibition officials not to interfere with their business.

Counsel for the national prohibition commissioner told Judge Hand that the case was the most important which has come before the court with the idea of upsetting the Volstead act. Judge Hand reserved decision.

Charles S. Santini, Bronx real estate dealer, who was arrested Saturday charged with impersonation of an internal revenue officer, was discharged yesterday by United States Commissioner Hitchcock.

The question whether prohibition enforcement agents must have search warrants in their possession when they enter places where liquor has been sold for the purpose of obtaining evidence against the proprietors was raised again yesterday in Brooklyn.

Henry D. Barmore, United States Commissioner, ruled the search warrant was necessary, and discharged from custody Harold W. Quaritius, who has a cafe and store at 2158 Broadway avenue, Canarsie, together with his employe, John Trainor. Quaritius was charged with maintaining a nuisance and Trainor with the sale of liquor.

This ruling conflicts with the decision of Federal Judge Chatfield, who held that warrants could be dispensed with, and dry agents recently have been operating in line with his decision. Commissioner Barmore, in delivering his opinion, said no copy of Judge Chatfield's opinion had ever been furnished him.

Police Seek Grave Vandals.

MALDEN, Mass., Aug. 5.—State and local police joined to-day in an effort to identify vandals who opened a grave in Holy Cross Cemetery recently and carried away the head of Casper Izert. Izert died in South Boston eight years ago at the age of 85. The coffin containing the body of his wife was found pried open also, but the body was not disturbed. The police theory is that the deed was that of an insane person.